

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 W. JACKSON BOULEVARD
CHICAGO, ILLINOIS 60604-3590

Reply to the Attention Of: SR-6J

August 19, 2011

Mr. Todd Konechne
The Dow Chemical Company
1111 Washington Street
Midland, MI 48640

RE: Reach MM In-Channel Island Removal Action Work Plan
Tittabawassee River, Saginaw River & Bay Site, Michigan
EPA Document #EPA T2.RMM.2011.003

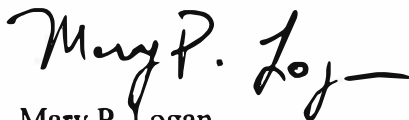
Dear Mr. Konechne:

The United States Environmental Protection Agency (EPA), in consultation with the Michigan Department of Environmental Quality (MDEQ) (jointly, the Agencies) has reviewed the Reach MM In-Channel Island Removal Action Work Plan (Work Plan), dated July 25, 2011, for a small in-channel island in Reach MM of the Tittabawassee River, Saginaw River & Bay Site. The Work Plan was submitted by The Dow Chemical Company (Dow) pursuant to requirements of Section VIII of the Administrative Settlement Agreement and Order on Consent for the Reach MM Island (Island MM AOC). Additionally, pursuant to Section 6.1 of the Work Plan Dow submitted on August 3 a supplemental figure detailing access to the river to conduct the work and dimensions of the floodplain work area and on August 17 a Work Plan Addendum.

EPA provided partial approval to Dow in an email dated August 12 and verbally at a meeting on August 17. In accordance with paragraph 17.b of the Island MM AOC, EPA is approving the Work Plan and supplemental information with the attached modifications. Pursuant to paragraph 17.c of the Island MM AOC, EPA is approving the remainder of work to commence.

Please contact me at (312) 886-4699 if you have any questions.

Sincerely,



Mary P. Logan
Remedial Project Manager

cc via email: A. Taylor – MDEQ
J. Haas – FWS
T. Prendiville, D. Russell, J. Cahn, C. Garypie – EPA
J. Pistro – Dow

EPA Approval with Modifications to the Reach MM In-Channel Island Removal Action Work Plan, July 25, 2011 and Supplemental Information, August 3, 2011 and August 17, 2011

General Comments

1. Fill material for access or for lay down areas must be removed upon completion of the project, and the site restored to original elevation and conditions.
2. Final elevations and dimensions of the cap and rebuilt island must be provided on the as-built drawings with the final report.
3. The Post-Removal Site Control Plan required by paragraph 20 of the Island MM AOC should address the cap and reconstructed island.

ARARs

4. The Work Plan cites to the Applicable or Relevant and Appropriate Requirements (ARARs) listed in the EE/CA and Action Memorandum. These documents listed, among others, Inland Lakes and Streams, Wetlands Protection, and Water Resources Protection. In accordance with 40 C.F.R. § 300.415(j), this removal action shall, to the extent practicable, considering the exigencies of the situation, attain ARARs under federal environmental or state environmental or facility siting laws. In accordance with Section 121(e) of CERCLA, 42 U.S.C. § 6921(e), and 40 C.F.R. §§ 300.400(e), no federal, state or local permits will be required for on-site response actions conducted as part of this removal action.
5. The following comments are intended to clarify the technical requirements under Part 301, Inland Lakes and Streams, Part 303, Wetlands Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended .
 - a. It appears from the supplemental figure submitted on August 3, 2011, that the total work area in the floodplain is about 1/8th of an acre. If the work footprint changes, MDEQ states that Part 303, Wetland Protection, does not recognize temporary wetland impacts as an exception to mitigation requirements. Wetland impacts greater than 1/3 of an acre that do not meet the General Permit category for Clean Up of Hazardous Substance and Toxic Wastes, require mitigation. Temporary access roads are not included in the general permit category.
 - b. Any temporary bridge or access road in the river must comply with Part 301, Inland Lakes and Stream, including R 281.835, *Haul Roads*.
 - c. All fill material for access or for lay down areas that are regulated under Part 301, Inland Lakes and Stream, or Part 303, must be removed upon completion of the

project, and the site restored to original elevation and conditions, including seeding with vegetation that is like or better than current vegetation.

- d. Temporary fills on the river bottom for work pads or access must also be removed and the river bottom restored to original elevation and condition.
 - e. Riverbanks must be restored to the original elevation, slope and condition.
6. The following comments are intended to clarify the technical requirements under The State's Floodplain Regulatory Authority found in Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (Part 31).
- a. There may be no encroachment in the floodway which, acting alone or in combination with existing or future similar works, may cause harmful interference. Dow has run their 3-D model and certified to EPA that the cap placement will not result in a harmful impairment. As soon as possible, Dow must run the HEC-RAS model for the island project to certify that the island will not cause a harmful impairment.
 - b. All fill for the temporary access roads must be removed as part of the In-Channel Island Removal Action. No permanent fill, grading, or construction (other than the specific in-channel removal, capping, and restoration) below the 100-year flood elevation of 600.6 NGVD29 is included.
 - c. To the extent practicable, spoils should not be stored in the floodway, and the amount, dimensions and duration of temporary spoils placement should be minimized. .